

Nebraska Press Association v. Stuart
427 U.S. 539 (1976)

This case arose as the result of an order from a Nebraska state trial judge who, while presiding over a widely publicized murder trial, issued an order restraining the ability of the press to report on the events of the trial. Both the prosecutor and the defense attorney requested that the court do something to lessen the media coverage of the trial, in order to ensure a neutral jury pool. The judge's position was that this prohibition was necessary to ensure a fair trial for the defendant.

The Supreme Court held that this order by the judge violated the First Amendment. While the Court did agree that the high profile nature of the case would generate a great deal of publicity prior to the start of the trial, they held that imposing a prior restraint on the press regarding this trial would not have achieved the goal of ensuring a fair trial for the accused. Chief Justice Burger, who wrote the opinion for a unanimous Supreme Court, stated that "prior restraints on speech and publication are the most serious and the least tolerable infringement on First Amendment rights". The Court held the order impermissible because there had been no determination that no alternative measures were available to protect the defendant. The Court also stated that pretrial publicity did not necessarily threaten a defendant's right to a fair trial.